



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
 United States Patent and Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450
www.uspto.gov

SEP 24 2009

Townsend and Townsend and Crew LLP
 Two Embarcadero Center, 8th Floor
 San Francisco, CA 94111

In re Application of	:	
Loc Nguyen et al.	:	DECISION ON PETITION
Application No. 10/676,723	:	UNDER 37 C.F.R. 1.181 TO
Filed: September 30, 2003	:	WITHDRAW FINALITY
For: METHOD AND SYSTEM FOR MANAGING	:	
DYNAMIC TERMS AND CONDITIONS AND	:	
USER INTERACTION	:	

This is in response to applicant's Petition filed on August 7, 2009, requesting withdrawal of the finality of the Office action mailed July 9, 2009 as being premature.

The petition is **GRANTED**.

Petitioner alleges that the Final rejection dated July 9, 2009 was premature since this Office action contained a new grounds of rejection not necessitated by Applicant's amendment.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates that the Office issued a non-final rejection on December 18, 2008 rejecting claims 24-26 under 35 USC 102(b) as anticipated by O'Toole Jr. et al. (US 2001/0037467). On March 18, 2009 Applicant amended independent claim 24 to include only limitations previously present in dependent claims 25 and 26. In the Final rejection dated July 9, 2009, claim 24 was for the first time rejected under 35 USC 102(b) as anticipated by Iannacci (US 2002/0062249), which rejection was not necessitated by Applicant's amendment.

Accordingly, the finality of the July 9, 2009 Office action, but not the action itself, is hereby vacated. The Office action dated July 9, 2009 is now considered to be non-final with the shortened statutory period of THREE (3) MONTHS set in the Office action.

Inquiries should be directed to Eric Stamber, Supervisory Patent Examiner, at 571-272-6724.

Summary: *Petition Granted*

A handwritten signature in black ink, appearing to read 'Wynn Coggins', is written over a horizontal line.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

EWS: 9/23/09

TL